

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DR. NAJWA ADMA BAHU-BAUGH,)	
)	
Plaintiff,)	
)	
v.)	No. CIV-22-212-HE
)	
AMERICAN BOARD OF INTERNAL)	Jury Trial Demanded
MEDICINE,)	
)	
Defendant.)	

AMENDED COMPLAINT

COMES NOW THE PLAINTIFF and pursuant to the Court’s Order dated July 26, 2022 (Dkt # 25) offers the following amended complaint:

PARTIES

1. The Plaintiff is Dr. Najwa Adma Bahu-Baugh, a physician licensed to practice medicine in the State of Oklahoma and residing in Oklahoma County, Oklahoma.
2. The Defendant is the American Board of Internal Medicine, a foreign business entity doing business in the State of Oklahoma and which provides certifications in various areas of medical practice.

JURISDICTION AND VENUE

3. This case was filed in the District Court of Oklahoma County and was removed to this Court based on diversity jurisdiction. Defendant has asserted that there is complete diversity of citizenship between it and the Plaintiff and that the amount in controversy exceeds Seventy Five Thousand Dollars (\$75,000) exclusive of costs and interest.
4. The acts giving rise to this action occurred in Oklahoma County and venue is

proper pursuant to 28 U.S.C. §1391(b)(2).

STATEMENT OF FACTS

5. Plaintiff is an adult female resident of Oklahoma County who is practicing in Oklahoma County as an Oklahoma licensed physician.
6. Plaintiff submitted to the Defendant the required fee of Fifteen Hundred and Ninety Dollars (\$1,590.00).
7. On November 21, 2019, Plaintiff sat for her Board examination in Oklahoma City, Oklahoma.
8. On or about January 14, 2020, the Defendant notified the Plaintiff that she had not passed her Board examinations.
9. Defendant did not provide a score nor demonstrate how or in what manner it was claimed that Plaintiff had not passed the Board examinations.
10. In 1999 the Plaintiff successfully completed a fellowship in pulmonary critical care medicine, and she has practiced in that field successfully since 2002—twenty years.
11. During her twenty years of practice, Plaintiff has completed continuing medical education in the specialty of pulmonary medicine, successfully completing fifty (50) hours of medical education in pulmonary medicine every two years or ten times since she commenced this practice.
12. Plaintiff has been certified by National Board of Physicians and Surgeons in the speciality of internal medicine with two subspecialties of pulmonary medicine and critical care.
13. Plaintiff was employed from 2002 through 2018 by Deaconess Hospital practicing in pulmonary critical care and also employed by Mercy Hospital

from 2002 through 2010 in pulmonary critical care medicine. In 2018 the Plaintiff moved her practice to Integris and continued that practice until 2021. During these periods of employments no issue was ever raised as to Plaintiff's competency as a pulmonary critical care physician.

14. In 2021, Integris required the Plaintiff to secure a board certification from the Defendant, American Board of Internal Medicine (ABIM).
15. To satisfy the requirements of Integris which are now being followed by more hospitals, Plaintiff applied and took the ABIM certification. To prepare to take that examination, the Plaintiff took two study courses– one in person in Arizona and one-line– which were study programs approved by ABIM. Additionally, Plaintiff took six practice tests which were also approved by ABIM. Plaintiff successfully completed all of the study courses and successfully passed all of the practice tests by well over the required minimum score.
16. Plaintiff sat for the ABIM examination in Oklahoma. In taking the examination, Plaintiff observed that the great majority of the questions on the examination were the same, or substantially similar, questions which had appeared in her study courses and in her practice examinations. Because Plaintiff was familiar with not only the medical field but the great majority of the study questions, she knew that she had successfully completed the ABIM examination.
17. Plaintiff was shocked when ABIM advised her that she had failed the examination. ABIM did not and has not explained how or in what manner her test results were not satisfactory and ABIM has not shown the Plaintiff her

actual test or scoring showing how the individual answers were graded.

18. The contract with the Defendant is subject to an implied covenant of good faith, fair dealing and faithful performance which Defendant breached by improperly grading Plaintiff's test score and recording her as having failed the examination when she did not. Defendant further breached its duty of good faith and fair dealing by refusing to allow the Plaintiff access to the test itself for the purpose of an independent scoring.
19. As the direct result of these breaches the Plaintiff has been injured in an amount believed to be in excess of Seventy Five Thousand Dollars (\$75,000.00).
20. Plaintiff is also entitled to equitable relief in the form of access to the test, the scoring and the opportunity for an independent scoring of the test.

WHEREFORE, the Plaintiff prays that judgment be entered in her favor and that the Court grant legal and equitable relief in the form of requiring the examination to be properly scored and evaluated and for the Defendant to be required to pay all of the costs of this action together with all damages proven.

RESPECTFULLY SUBMITTED THIS 9th DAY OF AUGUST 2022.

s/ Mark Hammons
HAMMONS, HURST, & ASSOCIATES
Mark Hammons, OBA No. 3784
Amber L. Hurst, OBA No. 21231
325 Dean A. McGee Avenue
Oklahoma City, Oklahoma 73102
Telephone: (405) 235-6100
Facsimile: (405) 235-6111
Email: taylor@hammonslaw.com
Counsel for Plaintiff
Jury trial demanded
Attorney Lien claimed

CERTIFICATE OF SERVICE

A true copy of the foregoing was filed and served upon the Defendant's counsel below listed on this 9th day of August, 2022 by use of this Court's ECF system of filing and service:

Paul Lantieri III, Pa. ID No. 88160
BALLARD SPAHR LLP
1735 Market St, 51st Floor
Philadelphia, PA 19103-7599
Telephone: (215) 665-8500
Facsimile: (215) 864-8999
Email: lantierip@ballardspahr.com
Counsel for Defendant

William H. Hock III, OBA No. 15788
Sally Harper Griffin, OBA No. 34853
CROWE & DUNLEVY, PC
Braniff Building
324 N. Robinson Ave, Suite 100
Oklahoma City, OK 73102
Telephone: (405) 235-7700
Facsimile: (405) 239-6651
Email: sally.griffin@crowedunlevy.com
will.hoch@crowedunlevy.com
Counsel for Defendant

s/ Mark Hammons